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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,065	01/30/2001	Doug Hutcheson	50310-00631	8176
7590	10/10/2003		EXAMINER	
LOUIS M. HEIDELBERGER			RAMPURIA, SHARAD K	
REED SMITH LLP			ART UNIT	PAPER NUMBER
2500 ONE LIBERTY PLACE			2683	
PHILADELPHIA, PA 19103-7301			DATE MAILED: 10/10/2003	
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/772,065	HUTCHESON ET AL.
	Examiner Sharad K. Rampuria	Art Unit 2683

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-59 is/are pending in the application.
 - 4a) Of the above claim(s) 60-92 is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-59 is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on ____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>3,10</u> .	6) <input type="checkbox"/> Other: ____

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
Group I, claim(s) 1-59, drawn to *receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber*, classified in class 455, subclasses 405-408.

Group II, claim(s) 60-92, drawn to *marketing offer*, classified in class 705, subclass 10.

2. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

A telephone call was made to Mr. Edward Dehm on September 17, 2003 and to request an oral election to the above restriction requirement, an election being made as follows.

Mr. Edward Dehm elected Group I, claim(s) 1-59.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 17, 22-25, & 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henon in view of Kazmi.

1. Regarding claim 1, Henon disclosed A method of rendering wireless communications services to one or more subscribers in return for payment of a charge (abstract), comprising: determining a flat rate charge for the services; (calling plan; col.4; 39-54) determining a period of time within which the flat rate charge shall apply; (hours; col.4; 39-54) determining the user's charge based upon the flat rate for the period of time; (charging; col.4; 39-54) providing unlimited access to the wireless communications services for the flat rate during the period of time; (free minutes; col.4; 39-54) and

Henon fails to disclosed receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber. However, Kazmi teaches in an analogous art, that receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber. (col.6; 33-54, col.7; 29-50) Therefore, it

would have been obvious to one of ordinary skill in the art at the time of invention to include receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber in order to determining a charging rate for a call connection within a mobile telecommunications network.

2. Regarding claim 2, Henon disclosed all the particulars of the claim except determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time. However, Kazmi teaches in an analogous art, that The method of claim 1, further comprising determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time. (free air time charges; col.4; 27–40) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time in order to determining a charging rate for a call connection within a mobile telecommunications network.

3. Regarding claim 3, Henon disclosed The method of claim 1, further comprising determining the value of the flat rate without relation to the number of calls made or received by the user during the period of time. (col.6; 39-48, col.4; 39-54)

4. Regarding claim 4, Henon disclosed The method of claim 1, wherein the period of time further comprises a predetermined period of time. (col.6; 39-48, col.4; 39-54)

17. Regarding claim 17, Henon disclosed The method of claim 1, further comprising providing the wireless communications services primarily in limited geographic areas in which the user substantially lives, works, and plays. (home calls; col.4; 39-54)

22. Regarding claim 22, Henon disclosed A method of rendering wireless communications services to one or more subscribers in return for payment of a charge, (abstract) comprising:

determining a flat rate charge for the services; determining a period of time within which the flat rate charge shall apply; (calling plan; col.4; 39-54)

determining the user's charge based upon the flat rate for the period of time; (hours; col.4; 39-54)

providing unlimited access to the wireless communications services for the flat rate during the period of time; (free minutes; col.4; 39-54)

Henon fails to disclosed receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber. However, Kazmi teaches in an analogous art, that receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber. (col.6; 33-54, col.7; 29-50) providing the wireless communications services primarily in limited geographic areas in which the user substantially lives, works, and plays; (home zone, work; col.6; 33-54, col.7; 29-50) and rendering the charges to the user in a billing statement that does not include detailed call records. (col.6; 33-54, col.7; 29-50) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include receiving payment of the charge substantially

before the wireless communications services are rendered to the subscriber in order to determining a charging rate for a call connection within a mobile telecommunications network.

23. Regarding claim 23, Henon disclosed all the particulars of the claim except determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time. However, Kazmi teaches in an analogous art, that The method of claim 22, further comprising determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time. (free air time charges; col.4; 27–40) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time in order to determining a charging rate for a call connection within a mobile telecommunications network.

24. Regarding claim 24, Henon disclosed The method of claim 22, further comprising determining the value of the flat rate without relation to the number of calls made or received by the user during the period of time. (col.6; 39-48, col.4; 39-54)

25. Regarding claim 25, Henon disclosed The method of claim 22, wherein the period of time further comprises a predetermined time period. (col.6; 39-48, col.4; 39-54)

41. Regarding claim 41, Henon disclosed A method of rendering wireless communications services to one or more subscribers in return for payment of a charge (abstract), comprising:

determining a flat rate charge for the services; determining a period of time within which the flat rate charge shall apply; (calling plan; col.4; 39-54)

determining the user's charge based upon the flat rate for the period of time; (hours; col.4; 39-54)

providing unlimited access to the wireless communications services for the flat rate during the period of time; (free minutes; col.4; 39-54)

Henon fails to disclosed receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber. However, Kazmi teaches in an analogous art, that receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber. (col.6; 33-54, col.7; 29-50) providing the wireless communications services primarily in limited geographic areas in which the user substantially lives, works, and plays; (home zone, work; col.6; 33-54, col.7; 29-50) and

rendering the charges to the user in a billing statement that does not include detailed call records. (col.6; 33-54, col.7; 29-50) providing the wireless communications services only in the determined geographic area; (home zone, work; col.6; 33-54, col.7; 29-50) and

operating the wireless communications services to optimize cost containment rather than revenue generation. (col.6; 33-54, col.7; 29-50) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include receiving payment of the charge substantially before the wireless communications services are rendered to the subscriber in order

to determining a charging rate for a call connection within a mobile telecommunications network.

42. Regarding claim 42, Henon disclosed all the particulars of the claim except determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time. However, Kazmi teaches in an analogous art, that The method of claim 41, further comprising determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time. (free air time charges; col.4; 27–40) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include determining the value of the flat rate without relation to minutes of use by the user of the wireless communications services during the period of time in order to determining a charging rate for a call connection within a mobile telecommunications network.

43. Regarding claim 43, Henon disclosed The method of claim 41, further comprising determining the value of the flat rate without relation to the number of calls made or received by the user during the period of time. (col.6; 39-48, col.4; 39-54)

44. Regarding claim 44, Henon disclosed The method of claim 41, wherein the period of time further comprises a predetermined time period. (col.6; 39-48, col.4; 39-54)

Claims 5-11, 13-16, 19-21, 26-31, 33-36, 38-40, 45-50, & 52-55, 57-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henon, Kazmi in view of Marsh et al.

5. Regarding Claim 5, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50 per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50 per month in order to provide the most optimal service plan available at a specific time.

6. Regarding Claim 6, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month in order to provide the most optimal service plan available at a specific time.

7. Regarding Claim 7, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 300 calls per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 300 calls per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 300 calls per month in order to provide the most optimal service plan available at a specific time.

8. Regarding Claim 8, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month in order to provide the most optimal service plan available at a specific time.

9. Regarding Claim 9, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to

about 600 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month in order to provide the most optimal service plan available at a specific time.

10. Regarding Claim 10, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month in order to provide the most optimal service plan available at a specific time.

11. Regarding Claim 11, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 1000 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising allowing use at a rate for the period of time that is

proportional to a rate of more than or equal to about 1000 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 1000 minutes of use per month in order to provide the most optimal service plan available at a specific time.

13. Regarding Claim 13, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 200 minutes per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 200 minutes per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 200 minutes per month in order to provide the most optimal service plan available at a specific time.

14. Regarding Claim 14, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 500 minutes per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 500 minutes per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate of greater than or equal to about 500 minutes per month in order to provide the most optimal service plan available at a specific time.

15. Regarding Claim 15, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the operating expense per user is at a rate that is proportional to a rate of less than or equal to about \$26 per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less

than or equal to about \$30 per month, and wherein the operating expense per user is at a rate that is proportional to a rate of less than or equal to about \$26 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the operating expense per user is at a rate that is proportional to a rate of less than or equal to about \$26 per month in order to provide the most optimal service plan available at a specific time.

16. Regarding Claim 16, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15%. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising:

maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month; and

maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15%. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15% in order to provide the most optimal service plan available at a specific time.

19. Regarding Claim 19, The above combination disclosed all the particulars of the claim except maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month in order to provide the most optimal service plan available at a specific time.

20. Regarding Claim 20, The above combination disclosed all the particulars of the claim except maintaining the cash cost per unit at less than or equal to about \$20. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising maintaining the cash cost per unit at less than or equal to about \$20. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the cash cost per unit at less than or equal to about \$20 in order to provide the most optimal service plan available at a specific time.

21. Regarding Claim 21, The above combination disclosed all the particulars of the claim except maintaining the acquisition cost per subscriber at less than or equal to about \$230. However, Marsh teaches in an analogous art, that The method of claim 1, further comprising maintaining

the acquisition cost per subscriber at less than or equal to about \$230. (col.17; 53 – col.20; 6)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the acquisition cost per subscriber at less than or equal to about \$230 in order to provide the most optimal service plan available at a specific time.

26. Regarding Claim 26, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50 per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50 per month in order to provide the most optimal service plan available at a specific time.

27. Regarding Claim 27, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month in order to provide the most optimal service plan available at a specific time.

28. Regarding Claim 28, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month in order to provide the most optimal service plan available at a specific time.

29. Regarding Claim 29, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month in order to provide the most optimal service plan available at a specific time.

30. Regarding Claim 30, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month in order to provide the most optimal service plan available at a specific time.

31. Regarding Claim 31, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 1000 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 1000 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 1000 minutes of use per month in order to provide the most optimal service plan available at a specific time.

33. Regarding Claim 33, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a

rate of less than or equal to about 200 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate that is proportional to a rate of greater than or equal to about 200 minutes per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about 200 minutes of use per month in order to provide the most optimal service plan available at a specific time.

34. Regarding Claim 34, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate that is proportional to a rate of greater than or equal to about 500 minutes per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate that is proportional to a rate of greater than or equal to about 500 minutes per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user

is at a rate that is proportional to a rate of greater than or equal to about 500 minutes per month in order to provide the most optimal service plan available at a specific time.

35. Regarding Claim 35, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the operating expense per user is at a rate for the period of time that is proportional to a rate of less than about \$26 per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the operating expense per user is at a rate for the period of time that is proportional to a rate of less than about \$26 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the operating expense per user is at a rate for the period of time that is proportional to a rate of less than about \$26 per month in order to provide the most optimal service plan available at a specific time.

36. Regarding Claim 36, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15%. However, Marsh

teaches in an analogous art, that The method of claim 22, further comprising: maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15%. (col.17; 53 – col.20; 6)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15% in order to provide the most optimal service plan available at a specific time.

38. Regarding Claim 38, The above combination disclosed all the particulars of the claim except maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month in order to provide the most optimal service plan available at a specific time.

39. Regarding Claim 39, The above combination disclosed all the particulars of the claim except maintaining the cash cost per unit at less than or equal to about \$20. However, Marsh teaches in

an analogous art, that The method of claim 22, further comprising maintaining the cash cost per unit at less than or equal to about \$20. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the cash cost per unit at less than or equal to about \$20 in order to provide the most optimal service plan available at a specific time.

40. Regarding Claim 40, The above combination disclosed all the particulars of the claim except maintaining the acquisition cost per subscriber at less than or equal to about \$230. However, Marsh teaches in an analogous art, that The method of claim 22, further comprising maintaining the acquisition cost per subscriber at less than or equal to about \$230. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$230 in order to provide the most optimal service plan available at a specific time.

45. Regarding Claim 45, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$50. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of

time that is proportional to a rate of less than or equal to about \$50 in order to provide the most optimal service plan available at a specific time.

46. Regarding Claim 46, The above combination disclosed all the particulars of the claim except charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30. However, Marsh teaches in an analogous art, that he method of claim 41, further comprising charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include charging a flat rate for the period of time that is proportional to a rate of less than or equal to about \$30 in order to provide the most optimal service plan available at a specific time.

47. Regarding Claim 47, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising allowing use at a rate for the period of time that is proportional to a rate more than or equal to about 400 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 400 minutes of use per month in order to provide the most optimal service plan available at a specific time.

48. Regarding Claim 48, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising allowing use at a rate for the period of time that is proportional to a rate more than or equal to about 600 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 600 minutes of use per month in order to provide the most optimal service plan available at a specific time.

49. Regarding Claim 49, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising allowing use at a rate for the period of time that is proportional to a rate more than or equal to about 800 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 800 minutes of use per month in order to provide the most optimal service plan available at a specific time.

50. Regarding Claim 50, The above combination disclosed all the particulars of the claim except allowing use at a rate for the period of time that is proportional to a rate of more than or equal to

about 1000 minutes of use per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising allowing use at a rate for the period of time that is proportional to a rate more than or equal to about 1000 minutes of use per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include allowing use at a rate for the period of time that is proportional to a rate of more than or equal to about 1000 minutes of use per month in order to provide the most optimal service plan available at a specific time.

52. Regarding Claim 52, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate greater than or equal to about 200 minutes per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate greater than or equal to about 200 minutes per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$40 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a

rate greater than or equal to about 200 minutes per month in order to provide the most optimal service plan available at a specific time.

53. Regarding Claim 53, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate greater than or equal to about 500 minutes per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate greater than or equal to about 500 minutes per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate greater than or equal to about 500 minutes per month in order to provide the most optimal service plan available at a specific time.

54. Regarding Claim 54, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the

services per user is at a rate for the period of time that is proportional to a rate less than or equal to about \$26 per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining the average revenue per user at a rate for the period of time that is proportional to a rate less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate less than or equal to about \$26 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month, and wherein the average minutes of use of the services per user is at a rate for the period of time that is proportional to a rate less than or equal to about \$26 per month in order to provide the most optimal service plan available at a specific time.

55. Regarding Claim 55, The above combination disclosed all the particulars of the claim except maintaining the average revenue per user at a rate for the period of time that is proportional to a rate of less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15%. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising: maintaining the average revenue per user at a rate for the period of time that is proportional to a rate less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15%. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the average revenue per user at a rate for the period of time that is

proportional to a rate of less than or equal to about \$30 per month; and maintaining the margin for the operator of the wireless communications services at greater than or equal to about 15% in order to provide the most optimal service plan available at a specific time.

56. Regarding Claim 56, The above combination disclosed all the particulars of the claim except maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months in order to provide the most optimal service plan available at a specific time.

57. Regarding Claim 57, The above combination disclosed all the particulars of the claim except maintaining the operating expense per subscriber at a rate for the period of time that is proportional to a rate less than or equal to about \$26 per month. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining the operating expense per subscriber at a rate for the period of time that is proportional to a rate less than or equal to about \$26 per month. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the operating

expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$26 per month in order to provide the most optimal service plan available at a specific time.

58. Regarding Claim 58, The above combination disclosed all the particulars of the claim except maintaining the cash cost per unit at less than or equal to about \$20. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining the cash cost per unit at less than or equal to about \$20. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the cash cost per unit at less than or equal to about \$20 in order to provide the most optimal service plan available at a specific time.

59. Regarding Claim 59, The above combination disclosed all the particulars of the claim except maintaining the acquisition cost per subscriber at less than or equal to about \$230. However, Marsh teaches in an analogous art, that The method of claim 41, further comprising maintaining the acquisition cost per subscriber at less than or equal to about \$230. (col.17; 53 – col.20; 6) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining the operating expense per subscriber at a rate that is proportional to a rate of less than or equal to about \$230 in order to provide the most optimal service plan available at a specific time.

Claims 12, 32 & 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henon, Kazmi in view of Chung et al.

12. Regarding Claim 12, The above combination disclosed all the particulars of the claim except adapting the wireless communications services as the user's primary telephone service. However, Chung teaches in an analogous art, that The method of claim 1, further comprising adapting the wireless communications services as the user's primary telephone service. (col.1; 46–53) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include adapting the wireless communications services as the user's primary telephone service in order to provide the most optimal service plan available for a particular number.

32. Regarding Claim 32, The above combination disclosed all the particulars of the claim except adapting the wireless communications services as the user's primary telephone service. However, Chung teaches in an analogous art, that The method of claim 22, further comprising adapting the wireless communications services as the user's primary telephone service. (col.1; 46–53) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include adapting the wireless communications services as the user's primary telephone service in order to provide the most optimal service plan available for a particular number.

51. Regarding Claim 51, The above combination disclosed all the particulars of the claim except adapting the wireless communications services as the user's primary telephone service. However, Chung teaches in an analogous art, that The method of claim 41, further comprising adapting the

wireless communications services as the user's primary telephone service. (col.1; 46–53)

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include adapting the wireless communications services as the user's primary telephone service in order to provide the most optimal service plan available for a particular number.

Claims 18, 37, 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henon, Kazmi in view of Dahm et al.

18. Regarding Claim 18, The above combination disclosed all the particulars of the claim except maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. However, Dahm teaches in an analogous art, that The method of claim 1, further comprising maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. (col.12; 12–36, col.15; 33–57) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months in order to provide the subscriber loyalty and retention techniques.

37. Regarding Claim 37, The above combination disclosed all the particulars of the claim except maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. However, Dahm teaches in an analogous art, that The method of claim 22, further comprising maintaining a user churn rate of less than or equal to

about 4% for users who have retained the services for about three or more months. (col.12; 12–36, col.15; 33-57) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months in order to provide the subscriber loyalty and retention techniques.

56. Regarding Claim 56, The above combination disclosed all the particulars of the claim except maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. However, Dahm teaches in an analogous art, that The method of claim 41, further comprising maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months. (col.12; 12–36, col.15; 33-57) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to include maintaining a user churn rate of less than or equal to about 4% for users who have retained the services for about three or more months in order to provide the subscriber loyalty and retention techniques.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is 703-308-4736. The examiner can normally be reached on Mon-Thu. (8:00-5:30) alternate Fri.(8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 703-308-5318. The fax phone numbers for the

organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4700.

Sharad K. Rampuria
October 2, 2003



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